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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/764,844	01/17/2001	Ronald P. Doyle	RSW920010007US1	6508

7590 05/26/2005		EXAMINER
Jeanine S. Ray-Yarletts		COLIN, CARL G
IBM Corporation T81/503		

ART UNIT	PAPER NUMBER
2136	

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DATE MAILED: 05/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action *Before the Filing of an Appeal Brief*	Application No.	Applicant(s)
	09/764,844	DOYLE ET AL.
	Examiner	Art Unit	
	Carl Colin	2136	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 May 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

      Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

      NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: _____.

   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
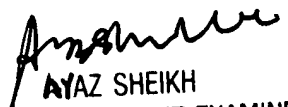
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant fails to respond to more clarification and evidence presented by Examiner to maintain the rejection of Matchett and Bjorn. Applicant instead responds by saying that the final office action appears to concede that the references do not teach all the limitations by its citation for the first time to England. Examiner disagrees with applicant's response to England because applicant states that all components are trusted in England, which is just in one embodiment then England states "not all versions of a component may be trusted". Applicant states that England nowhere discloses that the operating system is trusted and untrusted based on whether the component remained connected to the computer. England discloses that the right management certificates on the component are short-lived and must be renewed periodically; a monotonic counter can be used to ensure that the component clock cannot be set backwards to allow the replacement of a trusted component by an earlier now untrusted version, the operating system connects on a regular basis to a trusted time server and presents the value of its monotonic counter to validate the current time (column 15, lines 45-61). Therefore, the determination of whether a component is trusted is based on whether the component remains connected.

   Applicant states that the pending claims are patentable over Bjorn and Matchett for at least the reasons that were explained in the previous response on 11/2/2004 failing to respond to the evidence presented by Examiner as requested on 11/2/04. First, applicant relies on language that is not claimed to maintain the arguments by referring to "all the one or more other components" as "components other that the biometric sensor" whereas the claim language on the contrary recites "a biometric sensor as one of the one or more other components". Applicant also mentions that if the protected device is reconnected to the authentication system the data would not be trated differently than if it had not become disconnected. This is not claimed by applicant. Applicant only claims to make a determination within a secure system that a secure operation is valid based on all the other components which are securely operably connected to the system remaining connected before the operation completes, In other words, an authentication system determines that a secure operation is valid based on there is no disconnection of any component that is operably connected with the system during the secure operation. Bjorn discloses using public-private key system to make the communication between sensors and any systems used in processing more secure to prevent tampering (column 9, lines 33-35, 41-67). The public-private key system combined with a time stamp is a security sensitive operation used by the digital system to make a determination that the sensor and the digital system are interconnected as explained in (column 9, lines 64 through column 10, line 22). The only difference between Bjorn and the claimed invention is "repeatedly" obtaining a biometric input. Bjorn states that if a thief acceses the system once after the session is finished the thief cannot utilize the data obtained to access a second session because each time a session is established security is re-established meaning the system has to be authenticated again. Matchett discloses that the type of system that provides only one initial check "acts as gate to a protected system because the user stays in unchecked; a continuous intermittent periodic biometric checks would eliminate this problem" (column 2, lines 40-66). There is suggestion or motivation to combine the two references because the continuous intermittent periodic biometric checks of Matchett would not allow a thief to tamper the system after a first validation because one skilled in the art would have been motivated to continuously perform re-authentication to guarantee the interconnection of the devices. There should be continuous unpredictable repetition of authentication so long as a protected device is in use as suggested by Matchett (column 4, line 47 through column 5, line 7).

   Applicant states that Matchett does not suggest that the authentication system makes any determination of authenticity of a security sensitive operation based on the protective device becoming disconnected. In one embodiment, Matchett discloses authenticating usage of a protected device that must remain connected to a system: determining whether to allow continued function of the device includes if there is an interruption point for a signal between the protected device and the system or a power cutoff then operation is selectively terminated (column 5, line 49 through column 6, line 28).
Applicant states that Matchett does not teach or suggest a system core that can determine authenticity based on components other than a biometric sensor (which is not claimed) remaining securely connected because it discloses only one protected device. The example above as disclosed by Matchett is composed of elements that can be physically separated discrete devices to suit the intended application (column 5, lines 47-55) and the determination is based on continuous communication and comparison of authentication data between the elements through signals (column 5, line 49 through column 6, line 28).   One of the advantages as disclosed by Matchett is that there is a continuous analysis at unpredictable intervals of combined biometric data from a plurality of biometric authentication devices improving security because using a number of of disparate biometric devices make one depends on the other and improves security (column 4, lines 47-55). See also (column 9, line 50 through column 10) mentioning plurality of devices and discloses a disconnection of a protected system that meets the recitation of all the one or more other components, could result into shutdown of the protected system.

   Again, Applicant failed to respond to the evidentiary·support provided previously by Examiner in the last office action, and as emphasized above.   For at least the reasons cited above and in the office actions, the request for reconsideration has been considered but does not place the application in condition for allowance.

   The terminal disclaimer does not comply with 37 CFR 1.321(b) and/or (c) because: the disclaimer filed on 5/12/2005 to be recorded in the Patent and Trademark Office must be accompanied by the fee set forth in 37 CFR 1.20(d)

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